

Internal Revenue Service

District
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: JUN 17 1994

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(03) of the Internal Revenue Code.

You organized under by-laws approved on [REDACTED]. Your by-laws stated you were established exclusively for religious purposes. You were previously associated with [REDACTED].

You describe your activities as the normal functions provided by Christian churches: marriages, christenings, memorial services, counseling, working with homeless, criminals, etc. using your church as a halfway house. You also refer to outreach programs in various countries, including working on providing medical supplies in those countries, and civic projects.

You indicate your only members are those who you ordain and those who have contributed to you. However, you indicated you keep no record of members and/or their contributions. Your requirements for ordinances and membership are very general and seem to lack any real commitment on the part of members or those ordained. For example, in regards to ordination, you counsel applicants extensively and give instructions of how and why your church operates. You explain that they, if ordained, are not restricted to follow your specific practices, provided they are absolutely bound by the truth and that which is not harmful to another.

You are controlled by a vestry consisting of [REDACTED] and [REDACTED]. You indicate [REDACTED] is a non-voting member although there is no indication of that in the by-laws. [REDACTED] devotes [REDACTED] hours per week to the church. Hours devoted by the others was not indicated because, since none of them are paid, you do not keep records on them. In explaining the qualifications of [REDACTED] and [REDACTED] as ministers, you indicated they had spent a major portion of their lives counseling people. [REDACTED] and [REDACTED] are by occupation an architect, hospital supervisor, and in construction respectively. [REDACTED] is retired.

[REDACTED]

You stated that almost all of your sources of financial support in past years have been your clergy. You indicate that your receipts will continue to be almost all from clergy. You will accept funds from donors, but do not plan on assembling a congregation whose purpose would be to solicit ongoing contributions.

Based on financial data you provided, [REDACTED]%, [REDACTED]%, and [REDACTED]% of your 1 [REDACTED] [REDACTED] and [REDACTED] revenue came from [REDACTED] and [REDACTED]. You could not identify the other sources because you do not keep records of them and because you do not want them to be targeted and audited by the IRS. Your expenses were for costs associated with paying for and maintaining the building you claim is your church, and for utilities, supplies and educational expenses. The expenses included Ozarka water and cable TV.

You indicate you make your services known by your civic activities and work with various groups. You publish no bulletin nor advertise in publications. When asked to describe your services and provide a schedule of those services, you stated your form of worship is to minister to others and to attempt to fulfill the will of God and to properly protect all that God has created, and you recognize daily vespers. You indicate average attendance at your services is from two or more to a hundred or more. You subsequently indicated that those who attend vespers are whoever is in the building at the time of the vesper bells, usually 3 to 5 people. You stated that you do not keep numbers or names of those attending services.

[REDACTED] live in the church facility and have expenses paid for supplies and other items which would seem personal items (Ozarka drinking water and cable TV for example). [REDACTED] is the only signature authorized on the church account.

Minutes provided showed no votes of approval on operations, policies, procedures, or finances of the church. Minutes did not indicate who was present for meetings. Minutes were generally used to discuss social and general issues, and problems of church and vestry with governmental authorities as to recognition, tax problems, etc..

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 1.501(c)(3)-1(b)(1)(i) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of Organization -

- "(A) Limit the purposes of such organization to one or more exempt purposes; and
- (B) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that:

"An organization will be rearded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3)..."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that all the organizations there described must serve a public rather than a private interest.

In American Guidance Foundation, Inc. v. U.S., 490 F. Supp. 304 (D.D.C. 1980), the court said that, at a minimum, a church must include a body of believers that assemble regularly in order to worship. It must also be reasonably available to the public in its conduct of worship, in its educational instruction, and in its premeditation of doctrine.

In Bubbling Well Church of Universal Love, Inc. v. Commissioner, 74 T.C. 39 (6-9-80), it was held that the organization claiming to be a church did not meet its burden of proof. The organization was completely controlled by the founders who had total control over the organizations affairs, and preparation of its budget and expenditure of its funds, and could operate in this manner indefinitely.

In Church of Transfiguring Spirit, Inc. v. Commissioner, 76 T.C. No. 1 Filed January 5, 1981, the court denied exemption under section 501(c)(3) where virtually all of the income of petitioner, a religious organization, was contributed by two of its ministers, virtually all of such income was paid as housing allowances for the benefit of those ministers, and virtually all the control of petitioner was in those ministers.

[REDACTED]

You have not shown that you qualify as a church. You do not keep records of members, have not shown that you have regular attendance other than vestry, and have not shown that you make the services reasonably available to the public since you do little to make the public aware of the services. You have very general requirements for ordination and failed to really describe your services. Your minutes lack evidence of discussion on church policies, procedures, finance, etc.. You have no Sunday school nor literature. Thus, you have failed to meet the burden of proof as required by the case of Bubbling Well Church of Universal Love, Inc. v. Commissioner, and have failed to show that you meet sufficient criteria of American Guidance Foundation, Inc. v. U.S. to qualify as a church.

Your control, funding, and use of funds indicates that you serve private benefit of vestry as in Bubbling Well Church of Universal Love, Inc. v. Commissioner, and Church of Transfiguring Spirit, Inc. v. Commissioner. Based on those court cases and the prohibition of private benefit in the Code and regulations, you do not qualify for exemption.

Accordingly, you are not exempt under section 501(c)(3) of the Code and should file Forms 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

[REDACTED]

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]
[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018